

See MPEP §706.07(a), which indicates that a second or subsequent action on the merits should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. It is believed that the amendment changing “formed through” to read –penetrating through– should reasonably have been expected to be claimed. Accordingly, the Examiner is requested to withdraw the finality of the Office Action.

Response to Rejections

Claims 1-3, 8-10, 12, 13, 17, 24-26, 31-33, 38-40, 50-52, 56-60, 64, 65 and 72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Auer et al. and Doan (newly cited). The remaining claims were rejected under 35 USC §103(a) as being unpatentable over Auer et al. and Doan further in view of Ozaki et al. Favorable reconsideration of these rejections is earnestly solicited.

The Examiner now acknowledges that Auer et al. does not show a contact hole penetrating through the extension of an opposing electrode, exposing its sidewall of said opposing electrode and electrically connected to said plug. Doan is applied by the Examiner for its disclosure of a contact hole penetrating “an extension 28.”

Doan shows a side contact between a poly-silicon layer 28 and plugs 60 and 62 penetrating through the poly-silicon layer 28. The two strips 26 and 28 may typically be bit or digit lines for a DRAM, and is not one or an opposing electrode of a capacitor. Doan teaches connecting a device region 14 and a conductor 22 on the field oxide 20, both

below the insulation layer 30, using the poly-silicon layer 28, in a process of forming vias through the insulation layer 30, filling the vias with conductor, and removing the conductor above the insulation layer 30. There is no teaching of forming an extension of one electrode of a capacitor, forming the second insulating layer over the capacitor, forming a via through the second insulating layer and the extension of said one electrode, and deriving the one electrode to the surface of the second insulating layer by the conductor pattern filling the via. Accordingly, the teachings of Doan would not have motivated one of ordinary skill in the art to modify Auer et al. so that a first contact hole penetrates through said second insulating film and said extension of the one electrode.

Claim 3 further specifies a third conductive plug connected to the upper surface of the lower conductive member which is formed within the lower part of the insulating laminate. It can be seen that the opposing electrode of the capacitor is on the lower part of the insulating laminate and the lower conductive member is within the lower part of the insulating laminate, i.e., at different configurations. The second plug and the third plug derive the conductive member at different configurations to the upper surface. All the plugs of Doan are formed through the insulation layer 30 in the same configuration.

Claim 38 further specifies that the third contact hole is deeper than the second hole penetrating through the opposing electrode. This implies that the second contact hole does not reach the substrate. The contact hole of Doan is only through the insulation layer formed on the substrate. Doan teaches to connect two elements in or on the substrate

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through an embedded layer. This teaching cannot be easily applied to the case of deriving out some conductive member to the upper surface. Claims 50, 58, 73, 91 and 92 recite similar features.

Ozaki et al. fails to provide the teachings which Doan lacks.

An Information Disclosure Statement is submitted herewith which cites references made of record and U.S. Patent Application Serial No. 10/166,620, which may be considered directed U.S. Patent Application Serial No. 10/379,568 to related technical subject matter. The Examiner is requested to acknowledge consideration of these references.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

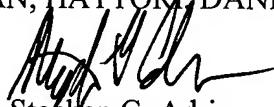
Should the Examiner deem that any further action by applicants would be desirable to place the application in better condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

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In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 50-2866.

Respectfully submitted,

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Attachments: Petition for Extension of Time
Information Disclosure Statement

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